was taken. *Held*, that the appeal be dismissed. *Long* v. *Long*, 84 Atl. 375 (Md.).

The appeal in the principal case was prematurely brought, but the court laid down the rule that an executor can never plead the Statute of Limitations to his own debts to the estate. Such broad language appears in one other case. *Thompson* v. *Thompson*, 77 Ga. 692, 3 S. E. 261. But there it is probable, and in the cases it cites it is clear, that the statute had not run at the testator's death. *Ingle* v. *Richards*, 28 Beav. 366; *Juillard* v. *Orem's Ex'rs*, 70 Md. 465, 17 Atl. 333. Where the statute had run before the testator's death it has been assumed that it could be pleaded. *Haines* v. *Haines' Ex'rs*, 15 Atl. 839 (N. J.). The theory of the cases is that equity presumes that to be done which should be done, and considers the debts turned into assets in the executor's hands. *Tarbell* v. *Jewett*, 129 Mass. 457. See 23 HARV. L. REV. 391. A court influenced by the old dislike of the Statute of Limitations might even hold a debt already barred to be assets. But to-day this dislike seems to have passed. See *Pritchard* v. *Howell*, 1 Wis. 131, 136; *Campbell* v. *Haverhill*, 155 U. S. 610, 617, 15 Sup. Ct. 217, 220. Furthermore, the evidence as to the original debt in the principal case would be more than six years old, a condition which the statute is designed to prevent. It is submitted that a rule of equity giving to legatees the same rights as the testatorshould not be construed to give them greater rights.

EXEMPLARY DAMAGES — EVIDENCE OF DEFENDANT'S WEALTH. — In an action of assault and battery, to aid the jury in assessing punitive damages the plaintiff offered evidence tending to show the defendant's reputed wealth. *Held*, that such evidence is admissible. *Bogue* v. *Gunderson*, 137 N. W. 595 (S. D.).

The assessing of punitive damages over and above that claimed by way of compensation has been very generally adopted, "for the sake of example, and by way of punishing the defendant." S. D., REV. CIV. CODE, § 2292; *Stimpson* v. *Rail Roads*, 1 Wallace, Jr., 164; *Grable* v. *Margrave*, 4 Ill. 372. The great weight of authority holds that evidence of the defendant's wealth is admissible in determining such damages. *Greeneberg* v. *Western Turf Association*, 140 Cal. 357, 73 Pac. 1050; *Pullman Palace Car Co.* v. *Lawrence*, 74 Miss. 782, 22 So. 53. Unfair discrimination against wealth naturally suggests itself as an argument against this result. But, since the object is to inflict on the particular defendant punishment of a desired degree of stringency, proportioning the fine to his income is obviously desirable. Penal statutes make no such discrimination, but it cannot be doubted that judges, in assessing fines, often consider the wealth of the defendant. The dissenting cases are also influenced by the fear of diverting the attention of juries from the nature of the act and of unfairly privileging insolvent defendants. *Givens* v. *Berkley*, 108 Ky. 236, 56 S. W. 158; *Southern Car & Foundry Co.* v. *Adams*, 131 Ala. 147, 32 So. 503. But such a danger should only exclude evidence when its relevancy is small. In the principal case, compensation being no longer in question, the issue has narrowed into what assessment upon the wealth of the particular defendant will best effect present punishment and future example.

FEDERAL COURTS — JURISDICTION — ENJOINING PROCEEDINGS IN STATE COURTS. — The plaintiff gas company sued in the federal courts to enjoin the enforcement of an unconstitutional ordinance, imposing a fine for failure to maintain a certain pressure. During the pendency of this suit, the city began proceedings in the state courts to compel the plaintiff to lower its rates. *Held*, that the city will not be enjoined by the federal court from proceeding in the state courts. *Kansas City Gas Co.* v. *Kansas City*, 198 Fed. 500 (Dist. Ct., W. D. Mo.).

The statute prohibiting a federal court from enjoining suits in state courts